



C.M.A.(MD) No.1473 of 2024

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED :29.01.2025**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

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1.Pothumani  
2.Mohana Priya  
3.Vasantha Manickam  
Appellants

...

VS.

1.A.Chellamuthu  
  
2.The Divisional Manager  
M/s.National Insurance Co. Ltd.,  
Division Office, First Floor,  
5A, Kalaignar Maligai,  
Sub-collector's Office Road,  
Dindigul – 624 001.  
Respondents

...

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1973, against judgment and decree dated 27.07.2023 passed in M.C.O.P.No.93 of 2020 on the file of the Motor Accidents Claims Tribunal/Sub Court, Kulithalai.



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For appellants : Mr.N.Sudhagar Nagaraj

For Respondents

For R1 : Dispensed with

For R2 : Ms.P.Malini

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## **J U D G M E N T**

Not being satisfied with the award dated 27.07.2023 passed in M.C.O.P.No.93 of 2020 by Motor Accidents Claims Tribunal, Sub Court, Kulithalai, Karur District, the claimants herein have filed this appeal for enhancement of compensation.

2. Heard the arguments of the learned counsel for the appellant Mr.N.Sudhagar Nagaraj and the learned counsel for the second respondent Ms.P.Malini.

3. Upon consideration, the Tribunal granted the compensation of Rs.12,68,948/- with following break up details:

| <b>S.No</b> | <b>Description</b>                              | <b>Amount</b>  |
|-------------|-------------------------------------------------|----------------|
| .           |                                                 |                |
| 1           | For loss of dependency                          | Rs.11,43,948/- |
| 2           | For loss of consortium (for the first claimant) | Rs. 50,000/-   |



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| S.No | Description                    | Amount                |
|------|--------------------------------|-----------------------|
| 3    | For loss of love and affection | Rs. 60,000/-          |
| 4    | For funeral expenses           | Rs. 10,000/-          |
| 5    | For transport expenses         | Rs. 5,000/-           |
|      | <b>Total</b>                   | <b>Rs.12,68,948/-</b> |

4. It is the evidence of P.W.1/wife that the deceased was working as a Handloom Trainer and was earning a sum of Rs. 15,600/- p.m. In order to substantiate the said details, Ex.P7/Statement of account of the deceased was filed. On a perusal of the said statement of account, it appears that it was given as stipend. P.W.4/Revenue Inspector has been examined in this regard. But, the income cannot be computed based on the evidence of P.W.4 by relying upon Ex.P7/Statement of account.

5. Date of accident is 13.12.2019. As per Ex.P8/PAN Card, the date of birth of the deceased is 04.12.1978. Relying on the same, his age is fixed as 41 years. Based on the abovesaid details, the income of the deceased is safely fixed at Rs.15,000/- p.m. As per the law laid down by the Hon'ble Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and others**



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reported in **2017 (2) TNMAC 609 (SC)**, for the age group of persons between 40-50 years, as regards future prospects, 25% has to be added. As held in **Sarala Varma and others vs. Delhi Transport Corporation and another** reported in **2009 (2) TNMAC 1 (SC)**, as the deceased died leaving behind three persons, 1/3 has to be deducted for his personal expenses and for the age group of persons between 41-45, relevant multiplier to be adopted is '14'. For computation of loss of dependency, the following formula emerges:

$$\text{Rs.15,000/-} + \text{Rs.3,750/- (25\%)} - \frac{1}{3} \times 12 \times 14 = \text{Rs. 21,00,000/-}$$

6. For loss of estate, an amount of Rs.15,000/- is granted. As regards other heads, the amount granted by the Tribunal appears to be reasonable and acceptable and hence, it needs no interference. The finding regarding the pay and recovery is confirmed. The compensation awarded by the Tribunal is re-worked and tabulated as given hereunder:



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| <b>S. No</b> | <b>Description</b>                              | <b>Amount awarded by Tribunal</b> | <b>Amount awarded by this Court</b> | <b>Award confirmed or enhanced or granted or reduced</b> |
|--------------|-------------------------------------------------|-----------------------------------|-------------------------------------|----------------------------------------------------------|
| 1            | For loss of dependency                          | Rs. 11,43,948/-                   | Rs.21,00,000/-                      | Enhanced                                                 |
| 2            | For loss of consortium (for the first claimant) | Rs. 50,000/-                      | Rs. 50,000/-                        | Confirmed                                                |
| 3            | For loss of love and affection                  | Rs. 60,000/-                      | Rs. 60,000/-                        | Confirmed                                                |
| 4            | For funeral expenses                            | Rs. 10,000/-                      | Rs. 10,000/-                        | Confirmed                                                |
| 5            | For transport expenses                          | Rs. 5,000/-                       | Rs. 5,000/-                         | Confirmed                                                |
| 6            | For loss of estate                              | ---                               | Rs. 15,000/-                        | Granted                                                  |
|              | Total                                           | Rs. 12,68,948/-                   | Rs.22,40,000/-                      | Enhanced by Rs.9,71,052/-                                |

7. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.12,68,948/- to Rs.22,40,000/-.

(iii) The first appellant/wife is entitled to Rs.12,40,000/- and the second and third appellants/daughter and son are entitled to Rs.5,00,000/- each along with interest at the rate of 7.5% p.a. from



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the date of claim petition till the date of realisation.

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(iv) The second respondent/Insurance Company shall deposit the enhanced compensation amount of Rs.22,40,000/- with accrued interest to the credit of M.C.O.P.No.93 of 2020 on the file of the Motor Accidents Claims Tribunal/Sub Court, Kulithalai, less the amount already deposited, if any within a period of eight (8) weeks from the date of receipt of a copy of this order, at the first instance, thereafter, recover the same from the first respondent due process of law.

(v) On such deposit, the appellants/claimants are entitled to withdraw their share amount with proportionate interest, less the amount already withdrawn, if any by filing appropriate application before the Tribunal.

(vi) The claimants/appellants are directed to pay the Court fee for the enhanced compensation amount, if required.

(vii) The Tribunal below shall disburse the amount upon



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production of the certified copy showing proof of payment of Court  
fee by the claimants.

**29.01.2025**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
apd

To

1.The Sub Judge,  
Motor Accidents Claims Tribunal/Sub Court, Kulithalai.

2.The Section Officer,  
V.R. Section,  
Madurai Bench of Madras High Court,  
Madurai.

**R.KALAIMATHI,J**



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apd

Pre-delivery order made in  
**C.M.A.(MD) No.1473 of 2024**

**29.01.2025**